

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on February 6, 2001 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: Rep. Douglas Mood (R)

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 443, 2/2/2001; SB 120,
2/2/2001; SB 148, 2/2/2001; HB
173, 2/2/2001
Executive Action: HB 173; SB 120; HB 251; HB
281; SB 148

HEARING ON HB 443

Sponsor: REPRESENTATIVE GILDA CLANCY, HD 51, HELENA

Proponents: Janice Doggett, Office of Secretary of State
Russell Gowen, Montana Land Title Association
Belinda Fargher, Ambassador Notary of the State of
Montana

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.0}

REPRESENTATIVE GILDA CLANCY, HD 51, HELENA said this bill would allow the Secretary of State's office to charge a maintenance fee for changes to current notary commissions. The bill also increases the fees that notaries can charge for services from \$1.00 to \$5.00. Fees for affidavits increase from \$3.50 to \$7.50 per page and for additional signatures the fee will increase from .50 to \$1.00. These increases are based on the current cost of doing business. This bill clarifies that notaries can charge for mileage and establishes a maximum fee, which is not higher than the state rate. She submitted an amendment. **EXHIBIT(sth30a01)**

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 4.3}

Janice Doggett, Office of Secretary of State, stated this was a clean up bill for notaries and briefly discussed the amendment and it's purpose.

Russell Gowen, Montana Land Title Association, submitted testimony. **EXHIBIT(sth30a02)**

Belinda Fargher, Ambassador Notary of the State of Montana, commented she would like to express her support to the bill. A number of the clean up items in the bill are very important, especially the section dealing with the bond. The bond is protection for the public not the notary. She did a survey four years ago of 1,200 notaries out of the 18,000 in Montana and 89% of those notaries did not know about the laws, rules and regulations over the notaries. The current initiatives to clean up the house bill will make the rules much easier for notaries to interpret.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 11.6}

REPRESENTATIVE HEDGES asked how often in the past 20 years has a notary needed to forfeit bond because of an infraction of the rules. **Janice Doggett** replied there has been five in the past two years.

REPRESENTATIVE LEHMAN asked why the supreme court eliminated the requirement of being a resident of the united states to be a notary. **Janice Doggett** replied the supreme court has said there are some duties or obligations that require residency, however, they did not feel that notarizing a document rose to a level requiring state residency.

REPRESENTATIVE DELL asked why the fees for notaries need to increase so significantly. **Janice Doggett** said the fees have not been increased in quite some time so the significant change is based on the length of time since the last change and also relates to the cost of doing business. **REPRESENTATIVE DELL** said he has only one time had to pay for a notary. It is usually a benefit of your bank and feels it is very rare to see a charge for a notary.

REPRESENTATIVE JENT commented on the maximum fee for a deposition or affidavit of \$7.50 a page. He clarified that a court reporter could now charge \$7.50 per page for a deposition. **Janice Doggett** replied that was true unless there is a contract with the court reporter stating otherwise. **REPRESENTATIVE JENT** said charging \$7.50 a page for a deposition is outrageous. Currently for a 100 page deposition at \$3.50 a page they pay \$350.00 and if the cost increases to \$7.50 a page they would be paying \$750.00 for a 100 page deposition. He then asked if any court reporters had any input into the drafting of this bill. **Janice Doggett** replied it was her understanding they were not completely involved in the drafting of this bill.

REPRESENTATIVE RIPLEY asked what the cost is to be bonded for \$10,000.00. **Lisa Thompson, Notary Compliance Officer**, replied the current cost for a \$5,000.00 bond is \$40.00 - \$50.00 for a four year term. After speaking to insurance companies her understanding was for a \$10,000.00 bond, the amount would increase \$10.00 - \$15.00 per four year term.

REPRESENTATIVE MASOLO stated she also had concerns on the cost increase and asked if an amendment could be done to take out section 9 of the bill. **REPRESENTATIVE CLANCY** replied she would like to visit with the Secretary of State's office about the section and get back to her.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 23.1}

REPRESENTATIVE CLANCY said she would invite the committee to call and speak with **Janice Doggett of the Secretary of State's office** if they have any other questions before executive action.

HEARING ON SB 120

Sponsor: SENATOR JON TESTER, SD 45, BIG SANDY

Proponents: John Northey, Legal Council, Legislative Audit Division

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 26}

SENATOR JON TESTER, SD 45, BIG SANDY, stated the majority of the bill deals with internal service accounts verses the enterprise fund. During a legislative audit they discovered state agencies were putting monies from surplus properties into the enterprise fund. The code said the surplus property needed to be deposited into the internal service fund, which is the wrong place for it to go. This bill changes the code so it will accurately reflect what the state agencies are doing and accurately reflect this is the way it needs to be done to be done right.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 27.3}

John Northey, Legal Counsel, Legislative Audit Division, said there is a general provision in state law that the state financial records should be accounted for under generally accepted accounting principals, which would require these funds be placed into an internal service fund. As the name applies,

internal services fund is internal to the agency and enterprise fund is external to the agency. Surplus property is not only sold to state agencies, but local government, non profit corporations and even the general public, which is external to the agency. This is a general housekeeping bill.

Questions from Committee Members and Responses:

None

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 29.2}

SENATOR TESTER closed on SB 120

HEARING ON SB 148

Sponsor: SENATOR JON TESTER, SD 45, BIG SANDY

Proponents: Pat Ludwig, Montana State Genealogy Society
Marilyn Lewis, Central Montana Genealogy Society
Mary Phippen, Montana Association of Clerks of
District Court
Patricia Marchington, State Genealogy Society
Betty Babcock, Citizen

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 29.8}

SENATOR JON TESTER, SD 45, BIG SANDY said this bill allows access to the public to some of the information on the marriage license application to the public.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 0.0}

Pat Ludwig, Montana State Genealogy Society, said their goal is to have access to the marriage license and certificate for research purposes. They feel it is vital to the links in tracing their families, not only for genealogy, but for medical purposes.

Marilyn Lewis, Central Montana Genealogy Society, stated access to records is very important to those individuals doing genealogy because marriage records go back much farther than birth and death records.

Mary Phippen, Montana Association of Clerks of District Court said the association stands in support of this piece of legislation, which is to implement a law to conform with the attorney general's opinion and to satisfy the needs of the public.

Patricia Marchington, State Genealogy Society, said she supports the bill and feels they need to have access to this part of Montana history. These are public records that are supposed to be viewable by the public.

Betty Babcock, Citizen, said she has been doing her and her husbands genealogy and has found it to be very important to have access to these records to properly identify their ancestors. Health reasons are also very good reasons. She urges the committee's support of the bill.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 4.9}

REPRESENTATIVE LEHMAN asked why a dissolution of marriage is considered confidential. **SENATOR TESTER** replied that oftentimes when a marriage is dissolved, both parties do not agree to it. There could be some problems with battery in the marriage or the involvement of children, then those documents can be sealed. It is up to the court whether or not a dissolved marriage needs to be sealed or not.

REPRESENTATIVE HEDGES asked why the attorney general felt these records should be confidential at all. **Patricia Marchington** replied it was an unclear situation whether they were public or confidential documents.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 13.6}

REPRESENTATIVE TESTER stated this is an important bill and is a question of access. He feels it is not an unreasonable access and is entirely proper and asked for a do pass on the bill.

HEARING ON HB 173

Sponsor: **REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN**

Proponents: None

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 14.7}

REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN said this is a bill he would like to see happen, however, he realized that was not going to happen and asked the committee to table the bill

EXECUTIVE ACTION ON HB 173

{Tape : 1; Side : B; Approx. Time Counter : 15.6}

Motion: **REP. SMITH** moved that **HB 173 DO PASS.**

Discussion:

REPRESENTATIVE LEHMAN asked **REPRESENTATIVE JENT** where the flaw is in the bill. He felt the bill was perfectly logical.

REPRESENTATIVE JENT said he felt it would have been good to have the governor come in and answer some questions, but after session started he realized that was not very practical with the time schedules. The bill would not have much of a chance and that is why he has moved to table the bill.

Substitute Motion/Vote: **REP. LEE** made a substitute motion that **HB 173 BE TABLED. Substitute motion carried unanimously. 18-0**

EXECUTIVE ACTION ON SB 120

{Tape : 1; Side : B; Approx. Time Counter : 20.8}

Motion/Vote: REP. MASOLO moved that HB 120 DO PASS. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 251

{Tape : 1; Side : B; Approx. Time Counter : 23.1}

Motion: REP. DELL moved that HB 251 DO PASS.

Motion: REP. LENHART moved that HB 251 BE AMENDED.
EXHIBIT (sth30a03)

Discussion:

REPRESENTATIVE BROWN and **Sheri Heffelfinger** discussed the amendments to the bill.

CHAIRMAN WALTERS asked what kind of impact the amendment would have on the fiscal note. **Sheri Heffelfinger** felt the current amendment would not affect the fiscal note.

Motion/Vote: REP. LENHART moved that HB 251 BE AMENDED. Motion carried 17-1 with Ripley voting no.

Motion: REP. LENHART moved that HB 251 BE AMENDED.

Discussion:

Sheri Heffelfinger discussed the 2nd amendment and said this amendment would have an impact on the fiscal note by changing the percentages to the number of hours. She is unaware of the how significant the change would be, but either way it will be pretty expensive. It will need to be recalculated based on hours of sick leave vs. years of service.

REPRESENTATIVE LEHMAN said he would vote against the bill.

REPRESENTATIVE DELL stated either way it would be pretty expensive and does not see the bill being passed if the cost stays the same. He does not anticipate voting for the bill.

Motion/Vote: REP. LENHART moved that HB 251 BE AMENDED. Motion carried 17-1 with Hedges voting no.

Motion: REP. HEDGES moved that HB 251 DO PASS AS AMENDED.

Discussion:

REPRESENTATIVE HEDGES asked to be on record as opposing this piece of legislation. The original intent of sick leave was not to build a retirement package.

Motion/Vote: REP. RIPLEY moved that HB 251 BE TABLED. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON HB 281

{Tape : 2; Side : A; Approx. Time Counter : 7.0}

Motion: REP. BROWN moved that HB 281 DO PASS.

Motion: REP. OLSON moved that HB 281 BE AMENDED.
EXHIBIT(sth30a04)

Discussion:

REPRESENTATIVE BROWN explained the amendments to the committee and gave clarification of the intent of the bill on behalf of REPRESENTATIVE LINDEEN.

REPRESENTATIVE MOOD stated he could not be more supportive of the amendment and feels it is exactly the right thing to do.

REPRESENTATIVE RASER stated she also supports this amendment.

Motion/Vote: REP. OLSON moved that HB 281 BE AMENDED. Motion carried unanimously. 18-0

Motion/Vote: REP. BROWN moved that HB 281 DO PASS AS AMENDED. Motion carried unanimously. 18-0

EXECUTIVE ACTION ON SB 148

{Tape : 2; Side : A; Approx. Time Counter : 16.5}

Motion/Vote: REP. MASOLO moved that SB 148 BE CONCURRED IN.
Motion carried 17-1 with Dell voting no.

ADJOURNMENT

Adjournment: 9:20 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth30aad)